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File No. 9813/36

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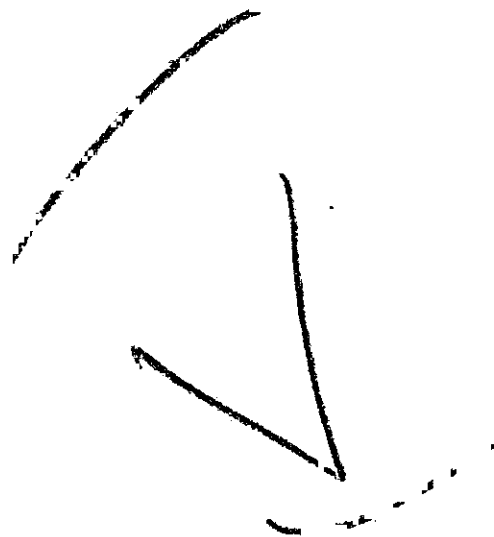
DEPARTMENT

& BRANCH R.

Subject:—Administrative Enquiry Committee

Posts excluded from the parview
of the B.P.S.C.

Review of—(paras 372-73 AEC Report).



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& (R)

File No. 9813/36

Etd. Sect. Slip. 24 A

DOCKET SHEET

File No. 98 13/36

P. W. DEPT.

to CR - BRANCH.

References :—

Date.	To whom sent.	Notes and instructions.
	Main file sent to Mahanasth.	

9813/36
44287

E.B.(R)

P. W. D.

In para 372 of the A.E.C. Report a ref. has been made to letter No.16/816, dated the 8-6-43 from the Bombay Sind P.S.C. to the H.D. This letter has not been recd. in ~~this~~ this Deptt.

2. The P. & S.D. has called the views of this Deptt. on the A.E.C's recommendation contained in para 372. Before the views of the Deptt. can be communicated to the P. & S.D. it is necy. to presume the P.S.C's letter.

3. The Secy. Bombay P.S.C. may accordingly be requested u.o. to furnish this Deptt. with a copy of the letter refd. to in para 1 above. This may kindly be treated as V.Urgent.

Id/-
17-8-48

V.Urgent.

Id/- 18-8

U.O. to Secy Bombay P.S.C.

BOMBAY P.S.C.

A copy of this office letter No.16/816, dated the 8th June 1943, is enclosed as desired.

SA 25/8/48
Secretary,

U.O.R. No.16, to the Public Works Department, dated the 25th August 1948.

LETTER.

No.16/716.

Dated the 8th June 1943.

From

The Secretary, Bombay Sind Public Service Commission,

To

The Secretary to the Government of Bombay,
Home Department, Bombay.

Reference your letter No.1524/4-A, dated the 13th May 1943, regarding the proposed exclusion of the post of Backward Classes Officer for the Province of Bombay from the functions of the

of the Commission. In the view of the Commission, the fact that an appointment to the post will be made, except in rare cases, by promotion or transfer from among persons already in Government service does not constitute a sufficient reason for excluding it from their functions. Under section 268(3) of the Government of India Act, 1935, all appointments in connection with the affairs of the Province have normally to be made in consultation with the Commission, whatever the method of appointment may be. It is true that under the same section the Government may, in his discretion, issue a regulation directing that, in respect of a particular matter, the Commission need not be consulted, but, if the objects for which Public Service Commission have been established are not to be frustrated, it is undesirable that any appointment should be excluded under this provision except on the basis of a general principle. Thus, an appointment may be excluded because it has to be made by an extra-provincial ~~native~~ authority like the Secretary of State or the Governor-General, or has to be made by the Governor in his discretion or in the exercise of his individual judgment. An appointment may likewise be excluded because it is considered desirable that it should be made in consultation with some other authority like the Federal Public Service Commission as in the case of appointments to listed posts) or the High Court (as in the case of certain legal, judicial and semi-judicial appointment). Thirdly, an appointment may be excluded because it necessarily involves political or personal considerations and consultation with the Commission is, therefore, unnecessary (e.g. the appointments of Personal Assistant to the Prime Minister and Public Relation Officer). Lastly, appointments may be excluded because consultation with the Commission is administratively inconvenient, as in the case of the large majority of appointments by authorities subordinate to Government. In every case the reason for exclusion can be stated as a general principle, and, in the view of the Commission, unless it can be so stated, exclusion from their functions is not justifiable. In any case, it would not be justifiable, as is proposed in this case, to exclude, an appointment merely

on the ground that it would be made on most occasions from among persons already in service, since if this ground were accepted as valid in one case. There would be no reason for consultation with the Commission in ^{any} all of the numerous other cases of appointment by promotion or transfer which are at present within their functions.

2. It is conceded in paragraph 2 of your letter that in rare cases recruitment to the post of Backward Class Officer may be made by the method of nomination (i.e. selection after advertisement). There seems to be no good reason why, when this method is followed, the usual procedure of recruitment through the Commission should not be adopted. There are other important posts like those of the Director of Industries and the Consulting Surveyor to Government, to which appointments by nomination may be made only at long intervals, but which have not been excluded on that ground from the functions of the Commission. There seems even less justification for excluding the appointment from the functions of the Commission when the method of promotion is followed, since only officers of the Backward Class Department would be entitled to consideration, and the Commission would be competent to advise Government under rule 5 of the ~~Bombay-Sindh-Punjab~~ Bombay-Sindh Public Service Commission (Functions) (Bombay) Rules, 1937, on the comparative merits of the few officers concerned on the basis of their qualifications and records, as they do in other promotion cases. Even when the method followed is that of transfer, there seems to be no reason why Government should not nominate the officers from among whom they intend to make a selection for the consideration of the Commission on the basis of their qualifications and records and in the light of any special considerations which Government may wish to place before them. In the past the Commission have been consulted by Government in several cases of appointment by transfer, such as those of the Non-Medical Personal Assistant to the Surgeon-General and to the Director of Public Health, Personal-Assistant to the Remembrancer of Legal Affairs, Assistant Secretary to Government Legal Department, Deputy Secy.

Secretary to Government, General and Education Department,
Under Secretary to Government, Political and Services
Department and Labour Officer, Bombay and there seems no
essential difference in principle between these appointment
and that of the Backward Class Officer.

3. An important consideration which the Commission desire particularly to bring to the attention of Government is that the nature of the duties of the Backward Class Officer, intimately connected as they are with the interests and rights of the Scheduled Castes, Backward Tribes and other Backward Classes, renders it particularly important that appointments thereto should be kept scrupulously free from any political and party influence. If the post were excluded from the functions of the Commission, a Ministry dependent for its existence on party support might be tempted to make an appointment which would suit its party interests and to use the officer so appointed to secure support for itself among the castes, classes and tribes under his care or to play off one group against another. It is generally understood that one of the objects of the establishment of Public Service Commissions is precisely to keep appointments and promotions free from political influences. For all these reasons, the Commission would strongly urge that the appointment should not be excluded from their functions.

4. As regards the draft recruitment rule forwarded with your letter, the Commission are of opinion that it ^{should} prescribe, not merely the qualifications required of candidates for appointment by nomination, but also the different methods by which the appointment may be made, and the class or classes of persons from amongst whom it may be made by each method. A revised draft of the rule containing ~~provisions~~ provisions is attached for the consideration of Government.

Sd/- J. B. Fernandes,

Secretary.

E.B.(R)

9813/36
46673

P. W.D.

The P. & S.^u has invited the attention of this Deptt. to paras 372-373 of the A.E.C.Report. and has requested this Deptt to communicate its views, with special reference to the posts which should be brought back within the purview of the P.S.C.

This question was discussed in details in connection with Chapter XI of the A.E.C.Report which includes the two parts and it was proposed that the following posts and categories might be brought within the preview of the P.S.C.

- (1) Promotion of a clerk from a lower Dn to upper Dn.
- (2) Disciplinary matters.
- (3) Centre, withholding an increment or promotion^y including steppage at an efficiency for of gazetted officers.
- (4) Discharge or reversion of an officer.

2. The P. & S.D. may if affd. be informed as per draft put up ~~and~~ It may be added that the two ~~shown~~ recommendations^s will be discussed, interalia, in the Secy's meeting to day(1-9-48)

Id/-
1-9-48

Id/-
2-9

Id/-
4-9

SEPARATOR

VERY URGENT.

GOVERNMENT OF BOMBAY
Political and Services Department,
Circular Memorandum No. Memorandum No.
3235/46.
Bombay Castle, 11th August 1948.

CIRCULAR MEMORANDUM.

The attention of all Departments of the Secretariat (except the Relief and Rehabilitation, Reconstruction, Civil Supplies and Separate Department) is invited to paragraphs 372 and 373 of the Report of the Administrative Enquiry Committee and they are requested to review the posts at present excluded from the purview of the Bombay Public Service Commission so far as they are respectively concerned in the light of the observations and recommendations made by the Administrative Enquiry Committee and to communicate their remarks to this Department at an early date with special reference to the question whether or not the posts should be brought back within the Commission's purview. The Legal and Home Departments are specially requested to examine the recommendations made by the Administrative Enquiry Committee in paragraph 373 of its report and to favour this Department with their views whether the posts mentioned therein, so far as they are respectively concerned, should be brought back within the Commission's purview.

By order of the Governor of
Bombay,

M. D. BHAT,
Chief Secretary to the Government of
Bombay, Political and Services Deptt.

All Departments of the Secretariat (except the Relief and Rehabilitation, Reconstruction, Civil Supplies and Separate Departments).

9813/36
46673

Letter.

No.9813/36-E(R)

P. W. D.

B.C. 13th Sept. 1948.

To

The Chief Secy to Govt.
P. & S.D.

Sub:- Review of posts excluded
from the preview of the Bombay,
P.S.C.

Ref. Your Cir. memo. No.3235/36, dated the 11-8-48.

2. The following posts & categories may be brought back
within the purview of the Bombay P.S.C.:-

(1) Promotion of a Clerk from lower Dn. to Upper Dn.

(2) Disciplinary matter.

(3) ^{we} Censura with holding over an increment or promotion
including stoppage at an efficiency bar of ~~galk~~
gazetted officers.

(4) Discharge or revision of an officer,

D.A.-Nil.

Id/-
1-9-48

Id/-
2-9-

Id/-
4-9

Administrative Enquiry Committee's Report.

Recommendations made in para. 373 of the
Government orders on

GOVERNMENT OF BOMBAY.
Political and Services Department.
Resolution No.3063/46.
Bombay Castle, 13th April 1949.

RESOLUTION OF GOVERNMENT.

In para. 373 of the report the Administrative Enquiry Committee has recommended the posts of Solicitors to Government, Government Pleaders, Principal and Professors of law Colleges etc., should be brought within the purview of the Commission. Government has carefully considered this recommendation and is pleased to direct that it should be accepted except in the case of Solicitors to Government and Government Pleaders.

By order of the Governor of Bombay,

M. D. Bhat,
Chief Secretary to the Government of Bombay,
Political and Services Department.

To

All Departments of the Secretariat.

P. W. D.

For disposal pl see Ser. No. 27480

Id/-
26-4-49

Administrative Enquiry Committee's Report.

Recommendations made in para. 372 of the
Government orders on

GOVERNMENT OF BOMBAY.
Political and Services Department.
Resolution No. 3063/46.
Bombay Castle, 13th April 1949.

RESOLUTION OF GOVERNMENT.

In para. 372 of its report, the Administrative Enquiry Committee has recommended that the appointments made by the Governor in his discretion and those that are essentially political should be excluded from the purview of the Public Service Commission. Government has carefully considered this recommendation and is pleased to direct that the present arrangement should be continued.

By order of the Governor of Bombay,

M. D. Bhat,
Chief Secretary to the Government of Bombay,
Political and Services Department.

To

All Departments of the Secretariat.